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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,265	07/22/1999	JAY S. WALKER	WD2-99-055	2597

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2164

MAIL DATE	DELIVERY MODE
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12/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/359,265

Applicant(s)

WALKER ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 95-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 95-111 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Preliminary Note: This office action includes new grounds of rejection and is accordingly made non-final.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 95-107 and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al. (U.S. Patent 2001/0053989) in view of Shimizu et al. (U.S. Patent 5,557,088).

Claim 95: Keller et al. discloses the step of receiving from a customer a request to purchase a travel product (col. 0022, lines 6-7, "basic request data"), which the travel product is associated with at least one variable component (paragraph 0022, lines 7-14: dates of departure and return, target price, carrier preference, paragraph 0022, lines 7-14).

The request includes information about a first flexibility of the customer with respect to a first variable component (paragraph 0023, variable departure dates indicating degree of flexibility).

The system determines a travel product based on the first flexibility of the customer (FIG. 3C, step 3207 or FIG. 3D, step 3309) each travel product having a respective first price (paragraph 0022, line 9, "user target price").

The system determines a score based on the first flexibility of the customer (paragraph 0023, lines 6-7, number of days before or after inputted date of travel is the score based on customer flexibility).

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The system determines minimum flexibility score (“not flexible”, corresponding to zero days of flexibility before or after inputted travel date is the minimum score).

The system determines maximum flexibility score (paragraph 0023, line 3, three days is the maximum degree of flexibility allowed, and thus the maximum score).

The system determines a second price (FIG. 3C, step 3208 or FIG. 3D, step 3310, determining the lowest fare price) based on the first price (paragraph 0037, lines 5-10, final fare price must be at or below the target price).

While the second price of Keller et al. is in fact discounted (reduced from the target price) due to the specified flexibility within the maximum and minimum limits (paragraph 0034, lines 11-14), Keller et al. does not explicitly disclose a step of determining the discount amount (determining the price difference between the target price and final price).

However, Shimizu et al. does disclose an electronic point of sale system in which a discount amount is determined (“discount” in FIG. 10) and used to determine a final, or second price.

It would have been obvious to one of ordinary skill in the art to modify Keller et al. to determine and display the discount amount (difference between target price and final price) to the user so as to provide an indication of the degree of cost savings as demonstrated by Shimizu. When applied to the system of Keller et al., the determined discount amount would be based on the flexibility variables, since the final price is based on these same variables.

Claim 96: Paragraph 0020 refers to computers and servers inherently including computer readable media and encoded instructions which execute the steps illustrated in the reference.

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Claim 97: The “preferred travel product” is that having the lowest price (FIG. 3C, 3208, FIG. 3D, 3209). The flexibilities are used to calculate that lowest price. Alternatively, the flexibility may be a carrier preference (paragraph 0022, last four lines) in which case the preferred carrier is the preferred product.

Claim 98: Paragraph 0023 describes a set of tolerances for one of the variable components (ranging from “not flexible” to “three days” of scheduling flexibility).

Claim 99 : The minimum value for the flexibility is “not flexible” and the maximum value for flexibility disclosed is three days (paragraph 0023).

Claim 100-101: The flexibility is specified in terms of days before or after a specific date of departure or date of return (paragraph 0023, lines 5-6). Accordingly, the flexibility specifies acceptable dates. A date is a specific time, so acceptable dates correlate to acceptable times.

Claim 102: The “service” can be interpreted as that of obtaining the lowest price fare (3208, 3310). Accordingly, the flexibilities are specified to obtain the desired service of obtaining the lowest price.

Claim 103: The specification of flexibilities results in a determination of appropriate airline flights (paragraph 0021). The flight selected by the user is the “acceptable location”.

Claim 104: The maximum price from the customer is the specified target price (paragraph 0022, line 9). Returned travel products will have the same price or lower prices (paragraph 0034, lines 11-14).

Claim 105: The information about the preferred travel product received from the customer is described at paragraph 0022, lines 7-14. Identified travel products “other than the preferred travel products” (i.e. non-preferred products) are any travel products for which the user

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does not book a seat (paragraph 0025, lines 10-11) or purchase a ticket (paragraph 0025, last line).

Claim 106: Paragraph 0042, fourth line indicate that multiple “low fares” can be presented to a user. The fare selected by the user from this set of “low fares” can be considered randomly selected since no additional criteria are specified by the user after these low fares are presented.

Claim 107: Paragraph 0021 indicates that the airline reservation information derives from either the SABRE or Apollo system and that such systems include “rules and restrictions”. These rules and restrictions are revenue management information.

Claim 111: See remarks for claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 108-109 rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al. (U.S. Pre-Grant Publication 2001/0053989) in view of Shimizu et al. (U.S. Patent 5,557,088) and further in view of Official Notice.

Claims 108-109: Examine takes Official Notice that it is well known in the art to provide vouchers for the purchase airline tickets. Vouchers can take the form of coupons which cover some or all the cost of a particular flight. Such vouchers are most commonly provided as promotions, or alternatively, when flights are cancelled and the voucher is used to purchase a new ticket on a different airline. Keeping records for those vouchers, such as recording coupon

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identification numbers or the name of the individual receiving such voucher are very well known in the art. It would have been obvious to one of ordinary skill in the to purchase airline tickets with the use of vouchers so as to defray some or all of the cost of the flight as part of a promotion, or to permit re-booking of tickets as result of flight cancellation, as is well known in the art.

Claim 110 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al. in view of Shimizu et al. (U.S. Patent 5,557,088) and further in view of Walker et al. (U.S. Patent 6,134,534, already cited of record).

Claim 110: Keller and Shimizu do not teach imposition of penalties. Walker et al. at col. 7, lines 18-22 teach the imposition of penalties for failure to purchase requested tickets. It would have been obvious to modify Keller and Shimizu to incorporate a penalty for users who request but do not purchase tickets so as to enhance revenue as taught by Walker et al.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
Art Unit 2164



CHARLES RONES
SUPERVISORY PATENT EXAMINER